

REMARKS/ARGUMENTS

Applicants' attorney thanks the Examiner for his courtesy and guidance in the brief March 14th, 2006 telephonic interview in which all matters were discussed.

The effect of this Amendment is to largely amend the claim trees to depend from claims previously allowed by the Examiner. Therefore, despite the finality of the last rejection, the Applicants kindly request entry of the following amendments and claim cancellation. First, **Claims 40, 56, and 73 are cancelled**. **Claims 39, 65, and 68 are amended** to clarify certain patentable issues. Accordingly, **Claims 38, 39, 41-43, 45, 47-48, 50, 54, 55, 57, 65, 67-70, 74, 75, 78, and 83-88 are now pending** in the application.

If any fees are due in connection with the filing of this Amendment, the Commissioner is hereby authorized to charge such fees to Deposit Account 50-0388 (Order No. SMBRP001).

Entry of the amendments and reconsideration of this application in view of the comments and amendments made herein is respectfully requested. Should the Examiner have any questions pertaining to this application, Examiner is earnestly invited to telephonically contact the Applicants' attorney at the Examiner's convenience.

Objections to the Drawings and Specification

These objections are addressed by the cancellation of Claim 56 which has been cancelled in view of the rejections advanced under *Guillen* and *Borst*. Accordingly, the Applicants respectfully submit that the objections to Claim 56 are now a moot point. Thus, Applicant's respectfully request that the pending objection to the specification and drawings be withdrawn.

Response to the Pending Rejections

Claim 39

Claim 39 has been amended to depend from Claim 38 which has been previously allowed. Accordingly, **Claim 39** now recites a produce container with a "hinge [that] includes at least one of said ventilation slots formed therein". Accordingly, the applicants respectfully request that this ground of rejection be withdrawn and Claim 39 be allowed.

As to the dependent claims, the applicants point out that many independent bases exist to support the patentability of these claims. However, in view of the underlying sufficiency of the base claims, a discussion of each independent ground of patentability is not deemed necessary at this time. Thus, for at least the reasons discussed above with respect to **Claim 39**, it is also submitted that dependent **Claims 41-43, 45, 47, 48, 54-57, 84 and 85** which depend directly or indirectly on **Claim 39**. Consequently, Applicants respectfully request that this ground for rejecting **Claims 41-43, 45, 47, 48, 54-57, 84 and 85** also be withdrawn.

Claim 65

Claim 65 has been amended to recite a produce container "wherein at least one of said elongate ventilation slots is arranged in the hinge". Accordingly, the applicants respectfully request that this ground of rejection be withdrawn and **Claim 65** be allowed.

Additionally, for at least the reasons discussed above with respect to **Claim 65** it is also submitted that **Claims 66, 67, 69, 70, 73-75, and 78** which depend directly or indirectly on **Claim 65**. Consequently, Applicants respectfully request that this ground for rejecting **Claims 66, 67, 69, 70, 73-75, and 78** also be withdrawn.

Claim 68

Claim 68 has been amended to recite a produce container "wherein at least one ventilation slot is formed in the back side of the container in the hinge". Accordingly, the applicants respectfully request that this ground of rejection be withdrawn and **Claim 68** be allowed.

Allowable Subject Matter:

The Office Action has already allowed **Claims 38, 50, 83, and 86-88** as these claims depend from allowable **Claim 38**. Accordingly it is believed that all such claims are in condition for allowance at this time.

Cancelled Claims

Claims 40, 56, and 70 are cancelled making any rejection of these claims moot. Therefore, the applicants request that all pending grounds of rejection be withdrawn at this time. Accordingly it is believed that all pending claims are in condition for allowance at this time.

Conclusion:

In view of the foregoing amendments and remarks, it is respectfully submitted that the claimed invention as presently presented is patentable over the art of record and that this case is now in condition for allowance.


Accordingly, the applicants request withdrawal of all pending rejections and request reconsideration of the pending application and prompt passage to issuance. As an aside, the applicants clarify that any lack of response to any of the issues raised by the Examiner is not an admission by the applicants as to the accuracy of the Examiner's assertions with respect to such issues. Accordingly, applicants specifically reserve the right to respond to such issues at a later time during the prosecution of the present application, should such a need arise.

As always, the Examiner is cordially invited to telephone the applicants representative to discuss any matters pertaining to this case. Should the Examiner wish to contact the undersigned for any reason, the telephone number set out below can be used.

Additionally, if any fees are due in connection with the filing of this Amendment, the Commissioner is authorized to deduct such fees from the undersigned's Deposit Account No. 50-0388 (Order No. SMBRP001).

Respectfully submitted,

BEYER WEAVER & THOMAS, LLP



Francis T. Kainski II
Registration No. 44,177

P.O. Box 70250
Oakland, CA 94612-0250
Telephone: (650) 961-8300